



Docket No.: KKP-0276
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Takashi Ohno

Application No.: 10/806,267

Confirmation No.: 1916

Filed: March 23, 2004

Art Unit: 1714

For: WATER BASED INK FOR BALL-POINT PEN
AND BALL-POINT PEN USING THE SAME

Examiner: T.H. Yoon

**PETITION UNDER 37 C.F.R. § 1.181
TO REQUEST WITHDRAWAL OF FINAL OFFICE ACTION**

MS AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant hereby petitions for withdrawal of finality of the Office Action of October 24, 2007.

Applicant, seeking review of the prematureness of the final rejection within the Final Office Action, respectfully requests reconsideration of the finality of the Office Action for the reasons set forth hereinbelow. See M.P.E.P. §706.07(c).

This is a petitionable issue because Applicant seeks review of the prematureness of the final rejection within that Office Action.

The “second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement” (emphasis added). M.P.E.P. §706.07(a).

Petition

A Petition Under 37 C.F.R. §1.181 to Request Withdrawal of the Final Office Action has been filed along on August 9, 2007 with this Request.

Timely consideration of this Petition is respectfully requested.

Argument

Page 4 of the Office Action indicates a rejection of claims 1-6, 8-9, 11 and 13 under 35 U.S.C. §103 as allegedly being unpatentable over U.S. Patent No. 6,916,862 to Ota et al. (Ota) in view of Japanese Application Publication No. 2000-043465 and U.S. Patent No. 6,114,412 to Kanabayashi et al. (Kanabayashi), and in further view of U.S. Patent No. 5,678,942 to Kobayashi et al. (Kobayashi) and **U.S. Patent Application Publication No. 2005/0096410 to Hattori et al. (Hattori).**

Hattori has a filing date of October 8, 2003. However, the above-identified application is entitled to benefit of the filing date for Japanese Patent Application No. 2003-084878 of March 26, 2003, which is earlier than the filing date of the Hattori reference.

A clean copy of a **certified English translation** of Japanese Patent Application No. 2003-084878 has been provided as an attachment to Amendment of January 24, 2008.

Thus, the rejection of claims under 35 U.S.C. §103 using Hattori should be withdrawn at least for these reasons.

Accordingly, the finality of the rejection of the claims made within the Final Office Action is premature at least for this reason.

"If, on request by applicant for reconsideration, the primary examiner finds the final rejection to have been premature, he or she should withdraw the finality of the rejection." M.P.E.P. §706.07(d).

Accordingly, Applicant hereby petitions the Commissioner under 37 C.F.R. §1.181 to direct the examiner to withdraw the finality of the Office Action mailed in the above-identified application on October 24, 2007.

Fees

No fee is believed required to support this petition. See 37 C.F.R. §1.181.

However, if any fee is required or any overpayment made, the Commissioner is hereby authorized to charge the fee or credit the overpayment to Deposit Account # 18-0013.

For any comments or suggestions that could place this application in even better form, please telephone Brian K. Dutton, Reg. No. 47,255, at 202-955-8753.

Dated: February 25, 2008

Respectfully submitted,

By 

Brian K. Dutton

Registration No.: 47,255

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